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COMMISSION
SECRETARIAT

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 5557

DATE COMPLAINT FILED: October 6, 2004

DATE OF NOTIFICATION: October 13, 2004

DATE ACTIVATED: August 8, 2005

EXPIRATION OF SOL: September 30, 2009

COMPLAINANT: Michael E. Morrill

RESPONDENTS: Pipkin for U.S. Senate, Inc. and Sharon Carrick,
in her official capacity as treasurer
Edward J. Pipkin

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 441a(i)
2 U.S.C. § 434(a)(6)(B)(iii)
11 C.F.R. § 100.19(g)
11 C.F.R. § 400.9(a)
11 C.F.R. § 400.21(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter concerns allegations that Edward J. Pipkin ("the Candidate") and Pipkin for Senate, Inc. and Sharon Carrick, in her official capacity as treasurer ("the Pipkin Committee"), failed to send a copy of the initial 24-Hour Notice of Expenditure from Candidate's Personal Funds ("FEC Form 10") to Senator Barbara Mikulski's campaign committee ("the Mikulski Committee") within 24 hours of making expenditures from the Candidate's personal funds that exceeded twice the threshold amount as calculated pursuant to 2 U.S.C. § 441a(i)(1)(B). The

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Pipkin Committee disputes these allegations and has submitted proof that it sent, and the Mikulski Committee received, its initial FEC Form 10 within the timeframe set forth in the Federal Election Campaign Act of 1971, as amended ("the Act"). See Pipkin Committee's response to the complaint and Attachment 1. For the reasons set forth below, this Office recommends that the Commission find no reason to believe that Edward J. Pipkin and Pipkin for Senate, Inc. and Sharon Carrick, in her official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R. § 400.21(a), and close the file.

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to the Act's "Millionaires' Amendment" (2 U.S.C. § 441a(i)), a Senate candidate who intends to make expenditures from personal funds in excess of the threshold amount shall file a notification no later than 24 hours after the candidate's aggregate expenditure of personal funds exceeds two times the threshold amount as defined in 11 C.F.R. § 400.9. See 2 U.S.C. § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a). The notification must be filed with the Secretary of the Senate, the Commission, and each candidate in the same election. 11 C.F.R. § 400.21(a). A candidate's FEC Form 10 is timely filed if it is received by facsimile machine by each of the appropriate parties within 24 hours of when expenditures of personal funds exceed two times the threshold amount. 11 C.F.R. § 100.19(g).

The Candidate's aggregate expenditures of personal funds exceeded twice the threshold amount on September 30, 2004, and the Candidate was therefore required to file an FEC Form 10 within 24 hours.¹ Although the Complainant alleges that the Mikulski Committee did not receive the Pipkin Committee's initial FEC Form 10, the Pipkin Committee has submitted proof,

¹ In Maryland the threshold amount for the 2004 election cycle was \$316,520.

1 in the form of a facsimile transmission verification report, which shows that it faxed, and the
2 Mikulski Committee received, the FEC Form 10 on September 30, 2004 at 1:13 p.m. See
3 Attachment 1. Additionally, there is confirmation that the Pipkin Committee faxed, and the
4 Secretary of the Senate and the Commission received, the FEC Form 10 on the same day at 1:15
5 p.m. and 1:17 p.m. respectively.² See Attachments 2 and 3. In contrast, there is no
6 documentation to support the complaint's bare allegations. Were there such documentation - -
7 for instance, a receipt log from the Mikulski Committee's facsimile machine showing that the
8 Mikulski Committee received no transmission from the Pipkin Committee's facsimile machine
9 on September 30, 2004 - - the issue would be more difficult. However, in this matter, the
10 information in the response and the Commission's records more than rebuts the unsupported
11 complaint. Therefore, based on the complaint and the information provided in the response to
12 the complaint, this Office recommends that the Commission find no reason to believe that
13 Edward J. Pipkin and Pipkin for Senate, Inc. and Sharon Carrick, in her official capacity as
14 treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R. § 400.21(a).

15 **III. RECOMMENDATIONS**

- 16 1. Find no reason to believe that Edward J. Pipkin violated 2 U.S.C.
17 § 434(a)(6)(B)(iii) and 11 C.F.R. § 400.21(a).
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19 2. Find no reason to believe that Pipkin for Senate, Inc. and Sharon Carrick, in her
20 official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R.
21 § 400.21(a).
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² Complainant acknowledges that the Pipkin Committee's FEC Form 10 was filed with the Secretary of the Senate on September 30, 2004. See complaint at 1.

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3. Approve the appropriate letters.

4. Close the file.

Lawrence H. Norton
General Counsel

10/6/05
Date

BY:

Lawrence L. Calvert, Jr.
Deputy Associate General Counsel
for Enforcement

Cynthia E. Tompkins
Cynthia E. Tompkins
Assistant General Counsel

Jack A. Gould
Jack A. Gould
Attorney

Attachments:

1. Pipkin Committee facsimile to the Mikulski Campaign
2. Pipkin Committee facsimile to the Secretary of the Senate
3. Pipkin Committee facsimile to the FEC

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